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MAILED

MAR 23 2004

Office of the Director
Group 1000

In re Application of :
Stephen Chen :
Application No. 09/832,808 :
Filed: April 12, 2001 :
For: REMOTE-END ROUTE-CALCULATING :
NAVIGATION SYSTEM :

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on December 22, 2003.

The petition is **DENIED**.

A review of the file reveals that a Notice of Allowability and a Notice of Allowance and Fee(s) Due (hereinafter "Notices") were mailed to the correspondence address of record on June 4, 2003. Since the issue fee was not timely received, the application went abandoned and a Notice to that effect was mailed on November 13, 2003.

Applicant submits that the above Notices were never received and provides a declaration presumably to take advantage of the procedures outlined in 1156 O.G. 53 and MPEP 711.03(c) for withdrawing an abandonment in an application having a non-received Office correspondence.

There is a strong presumption that Office communication properly addressed and delivered to the United States Postal Services, was in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

- (1) A statement from the practitioner stating the Office communication was not received by the practitioner;
- (2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

- (3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include a copy of the list of all responses in the practitioner's office with the due date of September 4, 2003. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G.53 (November 16, 1993).

Practitioner submits a statement that the above-noted Notices were not received. Practitioner also attests to the fact that a search of the file jacket and docket records indicates that the Notices were not received and a copy of the docket record where the non-received Notices would have been entered as being due on and around the date of September 4, 2003.

A review of the record indicates applicant filed a Revocation/Change of Address request on April 30, 2003, but the request was not entered and a Notice to that effect was mailed May 8, 2003. Applicant resubmitted the Revocation/Change of Address on July 10, 2003 and a Notice of Acceptance was mailed October 21, 2003 and the correspondence address was changed at that time to the address appearing above.

At the time the Notice of Allowability and Notice of Allowance and Fee(s) Due was mailed, the correspondence address of record was:

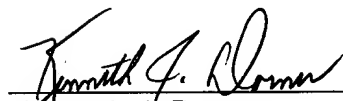
Rosenberg, Klein & Lee
3458 Ellicott Center Drive - Suite 101
Ellicott City, MD 21043

Since 1156 OG 53 is predicated upon the fact that applicant is able to receive the correspondence at the correspondence address of record, applicant's statement showing of non-receipt of the Notices needs to be reflective of the original correspondence address which was the correspondence address of record on June 4, 2003, the date the Notice of Allowability and the Notice of Allowance and Fee(s) Due were mailed.

SUMMARY: The Petition to Withdraw the Holding of Abandonment is **DENIED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



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KJD/mjz: 3/16/04